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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/488,298 01/20/00 LUTZ 0 3874-128 US

HM12/0510
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EXAMINER

KIM, J

ART UNIT	PAPER NUMBER
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1614

DATE MAILED:

05/10/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/488,298

Applicant(s)
Lutz et al.

Examiner
Jennifer Kim

Group Art Unit
1614



☒ Responsive to communication(s) filed on Jan 20, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-21 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☐ Claim(s) _____ is/are rejected.

☐ Claim(s) _____ is/are objected to.

☒ Claims 1-21 are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 1614

DETAILED ACTION

Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

Claims 1-21 are drawn to composition containing a heterocyclic compound including beta-D-glucoside compound of claim 3, which appears earlier in the classification. Applicants are, therefore, required to elect a specific compound for examination for the merits and to add a claim to said compound in a pharmaceutical composition.

2. The several inventions above are independent and distinct, each from the other, as they have acquired a separate status in the art of treating allergy and/or asthma as a separate subject matter for inventive effect and require independent searches. It is noted that a reference to one compound would not be a reference to another compound under 35 U.S.C. 103. Further, the claims read on a multitude of compounds which would require many field of searches that would be an undue burden on the Examiner. Therefore, restriction for examination purposes is proper.

Applicants are required to make a provisional election even though this requirement is traversed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer Kim whose telephone number is (703) 308-2232. The examiner can normally be reached on Monday through Friday from 9 AM. to 4 PM.

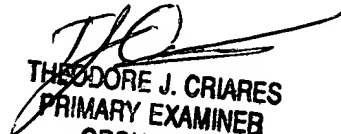
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marianne Cintins, can be reached on (703) 308-4725. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-7924.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

jmk

May 3, 2000


THEODORE J. CRIARES
PRIMARY EXAMINER
GROUP 1200
1600